



Metropolitan Water Reclamation District of Greater Chicago

100 East Erie Street
Chicago, IL 60611

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Title: Recommendation for the Board of Commissioners to grant the request by Atotonilco #2, Inc. for the Facility Located at 1707 West 47th Street, Chicago, Illinois, for Review by the Board of Commissioners of the 2008 User Charge Liability Determination Made by the Director of Monitoring and Research - Appeal No. 10B-002

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Date	Ver.	Action By	Action	Result
6/3/2010	1	Committee of the Whole	Recommended	Pass
6/3/2010	1	Board of Commissioners	Approved	Pass

TRANSMITTAL LETTER FOR BOARD MEETING OF JUNE 3, 2010

COMMITTEE ON INDUSTRIAL WASTE & WATER POLLUTION

Mr. Richard Lanyon, Executive Director

Recommendation for the Board of Commissioners to grant the request by Atotonilco #2, Inc. for the Facility Located at 1707 West 47th Street, Chicago, Illinois, for Review by the Board of Commissioners of the 2008 User Charge Liability Determination Made by the Director of Monitoring and Research - Appeal No. 10B-002

Dear Sir:

Atotonilco #2, Inc. (Atotonilco) submitted their 2008 User Charge Annual Certified Statement (RD-925) on February 20, 2009, and reported a Net User Charge (NUC) of \$3,378.89. The District revised Atotonilco's 2008 NUC from the reported \$3,378.89 to \$17,996.75 and advised Atotonilco of this revision in its letter dated May 26, 2009.

Atotonilco appealed the revision of the 2008 User Charge liability as determined by the Director of Monitoring and Research (Director), by letter dated August 28, 2009. A meeting was held on November 20, 2009, with representatives from Eagle Environmental Company and Anspach and Associates and the Monitoring and Research Department wherein Atotonilco presented its appeal of its 2008 User Charges. The Director, by letter dated January 29, 2010, which was received by Atotonilco on January 30, 2010, advised that the NUC in the amount of \$17,996.75 as recomputed by the District would stand. The letter also advised Atotonilco that, when the in-plant water loss proposal was approved by the District, Atotonilco would be allowed to submit an amended RD-925 for 2008 based on 60 days of water usage data derived from the accepted in-plant water loss proposal. No revision of biochemical oxygen demand and suspended solids concentration data would be permitted in the amended RD-925. Only then would Atotonilco's amended 2008 RD-925 be reviewed and their NUC revised if the 60 days of water usage data provided by Atotonilco for in-plant water losses were found to be acceptable.

Mr. Arthur J. Sherman, P.E. of Eagle Environmental Company wrote to the Director by letter dated February 18, 2010, which was received by the District on February 23, 2010, advising that Atotonilco did not concur with the determinations of the Director and, in accordance with Section 9 of the District's User Charge Ordinance (Ordinance), petitioned the Board of Commissioners (Board) for a hearing regarding the Director's determinations on this matter. This request for a hearing was made in a timely manner. In accordance with Section 9b(1)(a) of the Ordinance, Atotonilco was advised that in order to obtain a Board Appeal, Atotonilco had to deposit with the District at least 75% of its net User Charge. Atotonilco was further told that the deposit of an additional \$550.00 would enable it to meet this appeal requirement of the Ordinance. Atotonilco paid that amount. However, when all of the payments were booked, the automatic application of interest by the computer reduced the total net User Charge payment to 67%. Consequently, although the request for a hearing is not in technical conformance with the provisions of Section 9 of the Ordinance relating to "User Appeal Procedure," due to these unique circumstances and the good faith effort of Atotonilco to comply in this case, it is respectfully submitted that the Executive Director recommend that the Board grant the request for appeal by Atotonilco with a \$1,460.98 balance due toward the 75% deposit requirement, reserving the right to collect any monies owed after the appeal.

Should the Board elect to entertain the request for appeal, then pursuant to the provisions of Section 9 of the Ordinance, the Board shall determine whether the Board will conduct the hearing itself or delegate same to another person. In this instance, with respect to the hearing therefore:

1. Set a date certain upon which the Board would hear the appeal, while sitting en banc; or
2. Designate a person to conduct such a hearing on behalf of the Board in accordance with Section 9 of the Ordinance.

Requested, Louis Kollias, Director of Monitoring and Research, LK:TG:PLK:JAS:CM:mm/js

Recommended, Frederick M. Feldman, General Counsel

Respectfully Submitted, Patricia Horton, Chairman Committee on Industrial Waste & Water Pollution

Disposition of this agenda item will be documented in the official Regular Board Meeting Minutes of the Board of Commissioners for June 3, 2010